



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code CNC

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on November 6, 2017 (the "Application"). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated November 1, 2017 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing in person and as assisted by H.B., an advocate. The Tenant was also accompanied by N.J., a witness. The Landlord was represented at the hearing by H.D., an agent. The Tenant, N.J., and H.D. each provided a solemn affirmation at the beginning of the hearing.

The Tenant testified that Landlord was served with the Application package by registered mail on November 7, 2017. A Canada Post registered mail receipt was submitted in support. H.D. acknowledged receipt on behalf of the Landlord. The Landlord did not submit any documentary evidence in response to the Application.

No issues were raised with respect to service and receipt of the above documents. The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Tenant entitled to an order cancelling the One Month Notice?

Background and Evidence

The parties agree this long-term tenancy began about 19 years ago. Currently, rent in the amount of \$800.00 per month is due on the first day of each month. The Tenant testified she paid a security deposit of \$250.00 at the beginning of the tenancy.

The Landlord wishes to end the tenancy due to alleged assaults that took place at the rental property on October 25 and 26, 2017. H.D. testified that on October 25, 2017, the Tenant and her neighbour, C.L., had a disagreement. H.D. stated that the interaction culminated with the Tenant pushing on the door of her neighbour's rental unit. Police attended the rental property and an R.C.M.P. file number was provided by H.D. During the hearing, the Tenant acknowledged pushing on her neighbour's door in an attempt to scare C.L. and end a disagreement about parking.

Further, H.D. testified that on October 26, 2017, the Tenant pushed her neighbour down some stairs and punched her in the face after C.L. made some "inappropriate" remarks. Police again attended the rental property. H.D. provided a second police file number during the hearing, and testified that the police report confirmed the Tenant was the aggressor, and that photographs depicted bruising around C.L.'s eye.

As a result of these incidents, the Landlord issued the One Month Notice. The Tenant's Application confirms receipt of the One Month Notice on November 1, 2017.

The Tenant's version of events on October 26, 2017, differed somewhat from the version provided by H.D. The Tenant testified that C.L. made some disparaging remarks while the Tenant was retrieving some papers from her vehicle. The Tenant stated she had recently returned from a doctor's appointment, where she advised that she might not be able to control herself in her interactions with C.L. In any event, the Tenant testified that C.L. turned and hit the Tenant with her cane as they went up a flight of stairs. The Tenant denied pushing C.L. down stairs but acknowledged that she retaliated and punched C.L. in the face.

A witness, N.J., attended the hearing on the Tenant's behalf. N.J. is the former owner of the rental property. She testified that the Tenant is a very caring person and cares about the property. N.J. further testified that C.L. cries easily.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to end a tenancy for cause in the circumstances described therein. In this case, the One Month Notice was issued on the bases that the Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, or has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The Landlord's agent, H.D., testified with respect to two incidents that occurred on October 25 and 26, 2017. During these incidents, the Tenant pushed on the door of her neighbour's rental unit and punched her neighbour in the face. Police services were called to the scene on both

occasions and identified the Tenant as the aggressor. The Tenant acknowledged pushing on her neighbour's door in an attempt to scare her. She also acknowledged punching her neighbour in the face but stated this was in response to C.L.'s inappropriate comments and being struck with a cane.

In the circumstances, I find that there is sufficient evidence to conclude the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, and has seriously jeopardized the health or safety or lawful right of another occupant. Accordingly, I find the Tenant's Application to cancel the One Month Notice is dismissed, without leave to reapply.

When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. Having reviewed the One Month Notice, submitted into evidence by the Tenant, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 19, 2018

Residential Tenancy Branch